

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

ROBERT E. JONES,

v.

Plaintiff,

KATHRYN REYNOLDS, *et al.*,

Defendants.

Case No. 3:22-cv-00137-MMD-CSD

ORDER

Plaintiff Robert E. Jones brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations he allegedly suffered while incarcerated at Northern Nevada Correctional Center. (ECF No. 1-1.) On June 1, 2022, this Court ordered Jones to file an amended complaint within 30 days. (ECF No. 3.) Plaintiff filed a motion requesting a 90-day extension to file an amended complaint, and the Court granted Jones an extension until September 30, 2022. (ECF Nos. 5, 6.) The Court warned Jones that the action could be dismissed if he failed to file an amended complaint by that deadline. (ECF No. 6 at 1.) That deadline expired and Jones neither filed an amended complaint nor moved for another extension.

I. DISCUSSION

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir.

1 1987) (dismissal for failure to comply with court order). In determining whether to dismiss
2 an action on one of these grounds, the Court must consider: (1) the public's interest in
3 expeditious resolution of litigation; (2) the Court's need to manage its docket; (3) the risk
4 of prejudice to the defendants; (4) the public policy favoring disposition of cases on their
5 merits; and (5) the availability of less drastic alternatives. See *In re Phenylpropanolamine*
6 *Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting *Malone*, 833 F.2d at 130).

7 The first two factors—the public's interest in expeditiously resolving this litigation
8 and the Court's interest in managing its docket—weigh in favor of dismissal of Jones's
9 claims. The third factor—risk of prejudice to defendants—also weighs in favor of dismissal
10 because a presumption of injury arises from the occurrence of unreasonable delay in filing
11 a court-ordered pleading or prosecuting an action. See *Anderson v. Air West*, 542 F.2d
12 522, 524 (9th Cir. 1976). The fourth factor—the public policy favoring disposition of cases
13 on their merits—is greatly outweighed by the factors favoring dismissal.

14 The fifth factor requires the Court to consider whether less drastic alternatives can
15 be used to correct the party's failure that brought about the Court's need to consider
16 dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining
17 that considering less drastic alternatives before the party has disobeyed a court order
18 does not satisfy this factor); accord *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th
19 Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that
20 “implicitly accepted pursuit of less drastic alternatives prior to disobedience of the court’s
21 order as satisfying this element[,]” i.e., like the “initial granting of leave to amend coupled
22 with the warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*).
23 Courts “need not exhaust every sanction short of dismissal before finally dismissing a
24 case, but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779
25 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed until and
26 unless Jones files an amended complaint, the only alternative is to enter a second order
27 setting another deadline. But the reality of repeating an ignored order is that it often only
28 delays the inevitable and squanders the Court’s finite resources. The circumstances here

1 do not indicate that this case will be an exception: there is no hint that Jones needs
2 additional time. Jones filed a request for an extension, which the Court granted. Jones
3 did not request any further extensions or file any other documents in the case. Setting
4 another deadline is not a meaningful alternative given these circumstances. So the fifth
5 factor favors dismissal.

6 **II. CONCLUSION**

7 Having thoroughly considered these dismissal factors, the Court finds that they
8 weigh in favor of dismissal.

9 It is therefore ordered that this action is dismissed without prejudice based on
10 Jones's failure to file an amended complaint in compliance with this Court's June 30, 2022
11 order and for failure to state a claim.

12 The Clerk of Court is directed to enter judgment accordingly and close this case.
13 No other documents may be filed in this now-closed case. If Jones wishes to pursue his
14 claims, he must file a complaint in a new case.

15 It is further ordered that Plaintiff's application to proceed *in forma pauperis* (ECF
16 No. 1) is denied as moot.

17 DATED THIS 14th Day of November 2022.



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19 MIRANDA M. DU
20 CHIEF UNITED STATES DISTRICT JUDGE
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